



KY08125-AC

United States
Department of
Agriculture

CERTIFIED RECEIPT REQUESTED

July 14, 2011

Richard Evans
650 Tonkin Road
Mt. Sterling, KY 40353

Dear Respondent:

Subject: **Richard Evans, Respondent-**
Docket No. 11-0314

Office of
Administrative
Law Judges

Hearing Clerk

Room 1031
South Building

1400 Independence
Avenue SW

Washington, DC
20250-9200

(202) 720-4443
(202) 720-9776 fax

Enclosed is a copy of the Complaint, which has been filed with this office under the Horse Protection Act.

Also enclosed is a copy of the Rules of Practice which govern the conduct of these proceedings. You should familiarize yourself with the rules in that the comments which follow is not a substitute for their exact requirements.

The rules specify that you may represent yourself personally or by an attorney of record. Unless an attorney files an appearance in your behalf, it shall be presumed that you elected to represent yourself personally. Most importantly, **you have 20 days from receipt of this letter to file with the hearing clerk an original and three copies of your written and signed answer to the complaint.** It is necessary that your answer set forth any defense you wish to assert, and specifically admit, deny or explain each allegation of the complaint. Your answer may include a request for an oral hearing. Failure to file an answer or filing an answer which does not deny the material allegations of the complaint shall constitute an admission of those allegations and a waiver of your right to an oral hearing.

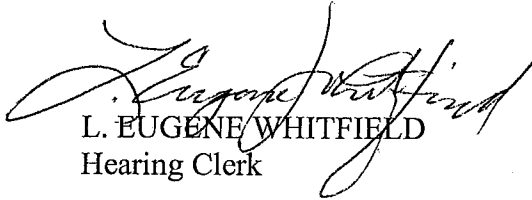
In the event this proceeding does go to hearing, the hearing shall be formal in nature and will be held and the case decided by an Administrative Law Judge on the basis of exhibits received in evidence and sworn testimony subject to cross-examination.

You must notify us of any future address changes. Failure to do so may result in a judgment being entered against you without your knowledge. We also need your present and future telephone number.

Your answer, as well as any other motions or request that you may hereafter wish to file in this proceeding, should be submitted in quadruplicate to the Hearing Clerk, OALJ, Room 1031, South Building, United States Department of Agriculture, Washington, DC 20250-9200.

Questions you may have respecting the possible settlement of this case, should be directed to the attorney whose name and telephone number appear on the last page of the complaint

Sincerely,



L. EUGENE WHITFIELD
Hearing Clerk

Enclosures-2

Sent to: Robert A. Ertman, Marketing Div., OGC
Ruth Ann McDermott, APHIS, Unit 85

JClayburn: 7/14/11

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

USDA
ALJ/OHC

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In re:

Richard Evans,

Respondent

) HPA Docket No. 11-0314

) Complaint

There is reason to believe that the respondent named herein has violated the Horse Protection Act, as amended (15 U.S.C. § 1821 et seq.), herein referred to as the Act. Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Respondent Richard Evans is an individual whose mailing address is 650 Tonkin Road, Mt. Sterling, KY 40353.

B. At all times material hereto, respondent Richard Evans was the trainer of the horse known as "Centennial's Copy Cat" and exhibited this horse as Entry No. 106, Class No. 77, on September 20, 2008, at the 43rd Annual Kentucky Celebration Horse Show at Liberty, Kentucky.

II

On September 20, 2008, respondent Richard Evans, in violation of section 5(2)(A) of the Act (15 U.S.C. § 1824(2)(A)), exhibited the horse known as "Centennial's Copy Cat" as Entry No. 187, in Class No. 77, at the 43rd Annual Kentucky Celebration Horse Show at Liberty, Kentucky, while the horse was sore by virtue of being scarred as defined in section 11.3 of the regulations issued pursuant to the Act (9 C.F.R. § 11.3).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact violated the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances including an order:
 - (a) Assessing civil penalties against the respondent in accordance with section 6(b) of the Act (15 U.S.C. § 1825(b)); and
 - (b) Disqualifying the respondent for a specified period as provided in section 6(c) of the Act (15 U.S.C. § 1825(c)) from (1) showing, exhibiting or entering any horse, or otherwise participating in any horse show or exhibition, and (2)

judging or managing any horse show, horse exhibition, horse sale
or auction.

Done at Washington, D.C.
this 11th day of July, 2011

Acting

ROBERT A. ERTMAN
Attorney for Complainant
Office of the General Counsel
United States Department of
Agriculture
Washington, D.C. 20250-1417
Telephone (202) 720-4982
robert.ertman@ogc.usda.gov

